

11/12/77 [2]

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THE WHITE HOUSE
WASHINGTON
November 12, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Bob Lipshutz

RE: DEATH PENALTY

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
✓	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
✓		EIZENSTAT
		JORDAN
	✓	LIPSHUTZ
		MOORE
		POWELL
		WATSON
		LANCE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE WHITE HOUSE
WASHINGTON

11/11/77

Mr. President:

Congressional Liaison recommends against any kind of statement or activity on the death penalty at this time. CL indicates that the McClelland bill is not likely to go anywhere this session or next. "This is not the kind of issue we should be talking about during an election year."

OMB and Jordan concur with Eizenstat and Bell.

Comments from Powell and Lipshutz have been written in at appropriate points in the attached memo.

Rick



THE PRESIDENT HAS SEEN.
THE WHITE HOUSE

WASHINGTON

November 10, 1977

*Stu
hold
J*

MEMORANDUM FOR: THE PRESIDENT

FROM: ATTORNEY GENERAL BELL *GBB*
STU EIZENSTAT *Stu* *BY TA*
ANNIE GUTIERREZ *(with permission)*

SUBJECT: Morris Dees' Memorandum re: Death
Penalty

In his memorandum of July 12, 1977, Morris Dees recommended the following:

1. The creation of a death penalty study commission;
2. A Presidential public statement to Governors, asking them to make clemency the rule, not the exception;
3. That you oppose a Federal death penalty;
4. That the Justice Department set up a monitoring project to report the racially discriminatory nature of the imposition of the death penalty;
5. That Federal legal aid be provided for criminal defendants.

You have requested our comments on the memorandum, which we have attached. Senator McClellan has introduced S. 1382, which would provide new procedures for the death penalty in 14 different situations. The Administration has testified that the proposed bill is constitutional. Judge Bell told Senator McClellan earlier this year that he would personally support the McClellan bill. The Justice Department will need guidance on how they should testify for the Administration on the substance when requested to do so. Stu believes that the McClellan bill is too broad, and that the Administration should have its own position on the death penalty. However, we both agree that this subject should be kept low-key for the time being, and a public statement made only if pressed to testify.

Once you have decided how you wish to proceed, Stu will draft a reply for Morris Dees.

**Electrostatic Copy Made
for Preservation Purposes**

1. Death Penalty Study Commission

The basic issue involved in the establishment of a commission to study the death penalty is whether it will help the decision maker by providing a more rational basis for decision or by lending acceptability to his decision.

a) Arguments in favor of a commission:

- A properly constituted commission could analyze and evaluate all available information, conduct further research as needed and determine whether the deterrent rationale for capital punishment is valid and whether the application of existing death penalty statutes is unconstitutionally discriminatory.
- A decision based on the recommendations of a study commission would be more acceptable to the public and politically less damaging.

b) Arguments against a commission:

- Further study would not guarantee a more informed judgment
 - This issue tends to be an emotional one, with most individuals holding strong views which are unlikely to be changed by the type of information developed;
 - Given the disuse of the death penalty in the recent decades and the number of variables to be considered, the available empirical data is inadequate to support any meaningful conclusions concerning the deterrent effect;
 - Since deterrence is not the only justification for capital punishment (incapacitation and just punishment are equally as rational), no amount of additional evidence regarding deterrence can be dispositive;
 - Efforts to analyze the deterrent effect of capital punishment have become so complex and hypothetical that conclusions are unlikely to find wide acceptance.

- o The appointment of a commission could be seen as an abdication of executive responsibility for making a politically difficult decision, and might be viewed only as an attempt to avoid or postpone having to make an unpleasant choice.

Recommendation: We both recommend against appointing a Commission. The Attorney General personally believes that a commission is a "no win proposition."

_____ Establish commission

✓

_____ Do not establish commission (recommended) (Powell and Lipshutz concur)

- c) An alternative to a study commission as proposed by Dees would be an internal study group appointed within the Justice Department to analyze the matter and make a recommendation to you.

This idea has the same advantages as a commission, except that it might be more expeditious. The disadvantages are the same for a commission, except that the results might be more suspect since it would be an internal group. At his confirmation, Judge Bell said he favored capital punishment laws to cover a narrow set of offenses such as aircraft piracy and the killing of a prison guard. Therefore, depending on the results of such an analysis, results might be considered by observers as predetermined. The Attorney General does not recommend because state law is in a state of flux and a study at this time would be premature.

Recommendation: While I would have no objection to an internal study group in DOJ, I do not recommend it in light of Judge Bell's opinion.

_____ Establish internal study group (Lipshutz favors*)

_____ Do not establish internal study group (recommended)
(Powell concurs)

2. Presidential Public Statement

Dees urges you to request that Governors allow execution only in rare cases, making clemency the rule. This idea has particular application if you choose to appoint a study commission. You could then ask Governors to grant clemency while the matter is being studied. The advantage of such a statement would be to give the Governors important moral leadership. The disadvantage lies in charges that the Federal Executive is trying to preempt the judgment of Governors,

*but for thorough factual and historical analysis purposes only, not for recommendations.

and in the fact that public opinion polls show about two-thirds of the population in favor of the death penalty. Such a statement would subject you to severe criticism.

Recommendation: We recommend against making such a statement. (Judge Bell would put this in the "let sleeping dogs lie" category.)

_____ Issue statement

☒ _____

Do not issue statement (recommended) (Powell & Lipshutz concur)

3. Opposition to a Federal Death Penalty

(a) Whether to decide the issue now. If you decide to establish a Commission or request an internal study, you need not decide this question now. Moreover, it now appears that there will be no need for the Administration to testify on the McClellan bill this session. We recommend that if you decide against further study you treat the following recommendations as "FYI" -- and defer any death penalty announcement until Congressional action is imminent.

☒ _____

Defer decision (recommended) (Powell & Lipshutz concur)

Announce decision now

(b) The merits. Dees recommends opposing the death penalty altogether.

- o Opposing the death penalty would eliminate the arbitrary and potentially unfair and discriminatory application of a death penalty; it would put the U.S. in line with over 40 nations which have outlawed capital punishment; and it would further your stand on human rights.
- o On the other hand, many experts believe that the death sentence is a legitimate punishment in highly aggravated situations. In the campaign, you stated that the death penalty should be "retained for a few aggravated crimes like murder committed by an inmate with a life sentence." In addition, you would be taking a position which is definitely contrary to public opinion.

An alternative would be to reaffirm or modify your campaign statement.

- If you modify your statement to limit the death penalty to the single instance where a lifer kills a guard, the advantages would be that no further study would be required; the position is logically defensible because theoretically there could be no other deterrent for a lifer who kills a guard; and we would not have to weigh and balance between different crimes to see which would merit the death sentence.

However, the position does not meet the concerns of those who believe that the death penalty should be more widely applied.

A second alternative would be to reaffirm your campaign position and support either the McClellan bill or a modification of that bill.

- The Bill, S. 1382, provides for a Federal death penalty for:
 - assassination of the President and others in the line of succession;
 - assassination of members of Congress;
 - killing of Federal law enforcement officials, e.g., judges, United States Attorneys, FBI agents, etc.;
 - first degree murder within Federal reservations;
 - first degree murder of a foreign official;
 - death resulting from destruction (e.g., bombing) of aircraft or aircraft facilities;
 - death resulting from kidnapping where there is Federal jurisdiction;
 - death resulting from bank robbery where there is Federal jurisdiction, e.g. where a bank is insured by FDIC;
 - death resulting from aircraft piracy;
 - death resulting from train wrecking;

- death resulting from mailing of injurious articles where the mailing is a direct cause of the death, e.g., letter-bomb;
- death resulting from use of explosives where there is Federal jurisdiction, e.g., bombing of a Federal building;
- wartime espionage, and peacetime espionage to the extent it involves major weapons systems (e.g., nuclear weaponry) or defense strategy;
- treason.

• S. 1382 retains the death penalty for two offenses where life has not been taken--espionage and treason. Although it can be argued that both are very serious crimes, this country's experience with the charged atmosphere surrounding espionage cases--e.g., the Rosenberg trial and executions--counsels against the imposition of death for treason or espionage.

The bill also provides for the death penalty in a variety of instances on federal property or where there is another basis for federal jurisdiction, which can lead to the anomalous situation of a person being sentenced to death for a murder on an Indian reservation in the Black Hills, but not for the same murder in a crowded rally in front of the White House. In addition, the quiet poisoning of a congressman by his wife (or girlfriend) could result in the death penalty, but if the congressman brutally and savagely murdered and dismembered his wife (or girlfriend) the death penalty would not apply, unless he performed the act on government property. Why should the killing of the HUD Secretary result in the death penalty, but not the killing of the Director of OMB? While it is appropriate for Federal law to attempt to discourage assaults on high government officials, such anomalies lend the appearance of unfairness.

Recommendation: Stu recommends that (if you wish to make a decision at this time) you reaffirm your campaign statement, and support modification of the McClellan bill which would confine the death penalty to aggravated instances in which a prison guard is killed by a lifer and for mass or multiple murders, or for a single death under circumstances (such as terrorism) which are likely to result in mass or multiple murders. This would include a single death resulting from bombing, poisoning of a city water supply, air piracy, train wrecking, terrorist activities, etc. It would not include the killing of federal officials per se or killings on federal property per se. Judge Bell stated during his confirmation hearings that he would favor the death penalty in limited circumstances and also told Senator McClellan privately that he would personally support the McClellan bill, although he reserved the right to work out some modifications with Senator McClellan.

_____ Oppose the death penalty altogether (Dees recommends)

_____ Reaffirm campaign statement and approve death penalty only in the instance where an inmate serving a life sentence kills a guard.

**Lipshutz
comment on
p. 9.

_____ Approve the death penalty only where an inmate serving a life sentence kills a guard and for mass or multiple murders or for a single death under circumstances which are likely to result in mass, or multiple murders. (Stu recommends)

_____ Support the McClellan bill. (The Attorney General is committed personally to Senator McClellan subject to possible modifications. The Attorney General believes that if Senator McClellan urges his public support of the bill that the Attorney General can discuss possible modifications of the bill to align more closely the specifics of the bill with the public statements of the President and the Attorney General.)

4. Justice Department Monitoring Project

It is suggested in the Dees memo that the Department of Justice initiate a project to monitor the characteristics of offenders upon whom the death penalty is imposed, along with characteristics of the victims.

The advantages of such a monitoring project are that there would be data which could be used to test the assertion that the death penalty is imposed in a racially discriminatory

fashion, and to find out if the new state death penalty laws giving juries "guidelines" are working to prevent a discriminatory application of the death penalty. The data would be of use to the courts and Congress as well as the Executive.

The disadvantage of this proposal might be the time and difficulty involved in collecting the data. The Department already routinely collects and monitors data on incarcerated capital offenders as a part of the National Prisoners Statistics program administered by LEAA. However, the offender characteristics are not presently related to victim characteristics and consequently it is not now possible to compare the relative sentences of offenders according to particular characteristics of their victims.

The Civil Rights Division will review with LEAA the possibility of collecting and comparing data on victim characteristics so that such comparisons might be available in the future.

Recommendation

The Attorney General and Stu recommend that the monitoring project be undertaken if it appears feasible.

✓
_____ Justice Department should initiate such a monitoring project if feasible. (The Attorney General and Stu recommend) (Powell & Lipshutz concur)

_____ Justice Department should not initiate monitoring project.

5. Federal Legal Aid for Criminal Defendants

You are urged by Morris Dees to extend the Federal Legal Services Corporation to include legal aid for indigent criminal defendants. It now serves only those with civil legal problems.

The legal representation of indigent criminal defendants is a responsibility clearly mandated to the states. The problem is a lack of adequate representation. The Legal Services Corporation would not oppose the idea, but they are not anxious to assume such an undertaking, at least at this time.

Some alternatives to a full legal services-type operation might be the use of LEAA funds to bolster state public defenders where their resources are most lacking, such as training and laboratory analysis and investigation; or we might devise a legal aid system which concentrates only on capital offenses.

Recommendation: We would be willing to work on this with the Legal Services Corporation to present you with alternatives for your consideration, but we do not now recommend extension of legal aid to indigents in criminal matters.

_____ Set up informal study group to determine feasibility and present alternatives; (Lipshutz concurs***

_____ Do not consider at this time. (recommended)

***"Too many states either are unwilling or financially unable to furnish this protection. It is needed in all criminal cases, not just capital ones.)

**Lipshutz comment from p. 7: "Prefer deferring decision until internal study and historical analysis is completed. Also, when a recommendation is made it might also be coupled with some type of recommendation of mandatory serving of life sentences in certain cases--with perhaps a reservation of Presidential right to commute or pardon incorporated in it."

THE WHITE HOUSE

WASHINGTON

Date: November 10, 1977

MEMORANDUM

FOR ACTION:

Hamilton Jordan *concur*
Bob Lipshutz *attached*
Frank Moore *- attached - negative*
Jack Watson *concur by phone*
Jody Powell
Jim McIntyre

FOR INFORMATION:

The Vice President

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Eizenstat/Attorney General memo dated 11/10/77 re
Morris Dees' Memo on Death Penalty

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME:

DAY: IMMEDIATE TURNAROUND

DATE:

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

X	FOR STAFFING
	FOR INFORMATION
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*Please see my comments
on each option. - GJ*

STAFF RESPONSE:

☐ I concur.☐ No comment.

Please note other comments below:

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THE WHITE HOUSE

WASHINGTON

November 10, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM:

ATTORNEY GENERAL BELL
STU EIZENSTAT
ANNIE GUTIERREZ

GBB
BY TA
(with permission)

SUBJECT:

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Recommendation: We both recommend against appointing a Commission. The Attorney General personally believes that a commission is a "no win proposition."

_____ Establish commission

_____ Do not establish commission (recommended)

I concur. RJZ

- c) An alternative to a study commission as proposed by Dees would be an internal study group appointed within the Justice Department to analyze the matter and make a recommendation to you.

This idea has the same advantages as a commission, except that it might be more expeditious. The disadvantages are the same for a commission, except that the results might be more suspect since it would be an internal group. At his confirmation, Judge Bell said he favored capital punishment laws to cover a narrow set of offenses such as aircraft piracy and the killing of a prison guard. Therefore, depending on the results of such an analysis, results might be considered by observers as predetermined. The Attorney General does not recommend because state law is in a state of flux and a study at this time would be premature.

Recommendation: While I would have no objection to an internal study group in DOJ, I do not recommend it in light of Judge Bell's opinion.

I favor.

_____ Establish internal study group

but for thorough factual and historical analysis purposes only,

_____ Do not establish internal study group (recommended)

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2. Presidential Public Statement

Dees urges you to request that Governors allow execution only in rare cases, making clemency the rule. This idea has particular application if you choose to appoint a study commission. You could then ask Governors to grant clemency while the matter is being studied. The advantage of such a statement would be to give the Governors important moral leadership. The disadvantage lies in charges that the Federal Executive is trying to preempt the judgment of Governors,

and in the fact that public opinion polls show about two-thirds of the population in favor of the death penalty. Such a statement would subject you to severe criticism.

Recommendation: We recommend against making such a statement. (Judge Bell would put this in the "let sleeping dogs lie" category.)

_____ Issue statement

_____ Do not issue statement (recommended) *I concur. RJZ*

3. Opposition to a Federal Death Penalty

(a) Whether to decide the issue now. If you decide to establish a Commission or request an internal study, you need not decide this question now. Moreover, it now appears that there will be no need for the Administration to testify on the McClellan bill this session. We recommend that if you decide against further study you treat the following recommendations as "FYI" -- and defer any death penalty announcement until Congressional action is imminent.

_____ Defer decision (recommended) *I concur - RJZ*

_____ Announce decision now

(b) The merits. Dees recommends opposing the death penalty altogether.

- o Opposing the death penalty would eliminate the arbitrary and potentially unfair and discriminatory application of a death penalty; it would put the U.S. in line with over 40 nations which have outlawed capital punishment; and it would further your stand on human rights.
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_____ Oppose the death penalty altogether (Dees recommends)

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_____ Approve the death penalty only where an inmate serving a life sentence kills a guard and for mass or multiple murders or for a single death under circumstances which are likely to result in mass, or multiple murders. (Stu recommends)

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The Civil Rights Division will review with LEAA the possibility of collecting and comparing data on victim characteristics so that such comparisons might be available in the future.

Recommendation

The Attorney General and Stu recommend that the monitoring project be undertaken if it appears feasible.

_____ Justice Department should initiate such a monitoring project if feasible. (The Attorney General and Stu recommend)

_____ Justice Department should not initiate monitoring project.

concern
ST

5. Federal Legal Aid for Criminal Defendants

You are urged by Morris Dees to extend the Federal Legal Services Corporation to include legal aid for indigent criminal defendants. It now serves only those with civil legal problems.

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_____ Set up informal study group to determine feasibility and present alternatives;

_____ Do not consider at this time. (recommended)

I recommend
this study be
undertaken. Too
many states
either are unwilling
or financially
unable to furnish
this protection.
It is needed in
all criminal
cases, not just
capital ones!
- CJL

Date: November 10, 1977

MEMORANDUM

FOR ACTION:

Hamilton Jordan
Bob Lipshutz
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Jack Watson
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Jim McIntyre

FOR INFORMATION:

The Vice President

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Eizenstat/Attorney General memo dated 11/10/77 re
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ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

*opposes commission
internal study
defer*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE

WASHINGTON

November 10, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM:

ATTORNEY GENERAL BELL
STU EIZENSTAT
ANNIE GUTIERREZ

GBB
By TA
(with permission)
Stu

SUBJECT: Morris Dees' Memorandum re: Death
Penalty

In his memorandum of July 12, 1977, Morris Dees recommended the following:

1. The creation of a death penalty study commission;
2. A Presidential public statement to Governors, asking them to make clemency the rule, not the exception;
3. That you oppose a Federal death penalty;
4. That the Justice Department set up a monitoring project to report the racially discriminatory nature of the imposition of the death penalty;
5. That Federal legal aid be provided for criminal defendants.

You have requested our comments on the memorandum, which we have attached. Senator McClellan has introduced S. 1382, which would provide new procedures for the death penalty in 14 different situations. The Administration has testified that the proposed bill is constitutional. Judge Bell told Senator McClellan earlier this year that he would personally support the McClellan bill. The Justice Department will need guidance on how they should testify for the Administration on the substance when requested to do so. Stu believes that the McClellan bill is too broad, and that the Administration should have its own position on the death penalty. However, we both agree that this subject should be kept low-key for the time being, and a public statement made only if pressed to testify.

Once you have decided how you wish to proceed, Stu will draft a reply for Morris Dees.

1. Death Penalty Study Commission

The basic issue involved in the establishment of a commission to study the death penalty is whether it will help the decision maker by providing a more rational basis for decision or by lending acceptability to his decision.

a) Arguments in favor of a commission:

- A properly constituted commission could analyze and evaluate all available information, conduct further research as needed and determine whether the deterrent rationale for capital punishment is valid and whether the application of existing death penalty statutes is unconstitutionally discriminatory.
- A decision based on the recommendations of a study commission would be more acceptable to the public and politically less damaging.

b) Arguments against a commission:

- Further study would not guarantee a more informed judgment
 - This issue tends to be an emotional one, with most individuals holding strong views which are unlikely to be changed by the type of information developed;
 - Given the disuse of the death penalty in the recent decades and the number of variables to be considered, the available empirical data is inadequate to support any meaningful conclusions concerning the deterrent effect;
 - Since deterrence is not the only justification for capital punishment (incapacitation and just punishment are equally as rational), no amount of additional evidence regarding deterrence can be dispositive;
 - Efforts to analyze the deterrent effect of capital punishment have become so complex and hypothetical that conclusions are unlikely to find wide acceptance.

- o The appointment of a commission could be seen as an abdication of executive responsibility for making a politically difficult decision, and might be viewed only as an attempt to avoid or postpone having to make an unpleasant choice.

Recommendation: We both recommend against appointing a Commission. The Attorney General personally believes that a commission is a "no win proposition."

_____ Establish commission

✓ _____ Do not establish commission (recommended)

- c) An alternative to a study commission as proposed by Dees would be an internal study group appointed within the Justice Department to analyze the matter and make a recommendation to you.

This idea has the same advantages as a commission, except that it might be more expeditious. The disadvantages are the same for a commission, except that the results might be more suspect since it would be an internal group. At his confirmation, Judge Bell said he favored capital punishment laws to cover a narrow set of offenses such as aircraft piracy and the killing of a prison guard. Therefore, depending on the results of such an analysis, results might be considered by observers as predetermined. The Attorney General does not recommend because state law is in a state of flux and a study at this time would be premature.

Recommendation: While I would have no objection to an internal study group in DOJ, I do not recommend it in light of Judge Bell's opinion.

_____ Establish internal study group

✓ _____ Do not establish internal study group (recommended)

2. Presidential Public Statement

Dees urges you to request that Governors allow execution only in rare cases, making clemency the rule. This idea has particular application if you choose to appoint a study commission. You could then ask Governors to grant clemency while the matter is being studied. The advantage of such a statement would be to give the Governors important moral leadership. The disadvantage lies in charges that the Federal Executive is trying to preempt the judgment of Governors,

and in the fact that public opinion polls show about two-thirds of the population in favor of the death penalty. Such a statement would subject you to severe criticism.

Recommendation: We recommend against making such a statement. (Judge Bell would put this in the "let sleeping dogs lie" category.)

- ☐ Issue statement
- ☒ Do not issue statement (recommended)

3. Opposition to a Federal Death Penalty

(a) Whether to decide the issue now. If you decide to establish a Commission or request an internal study, you need not decide this question now. Moreover, it now appears that there will be no need for the Administration to testify on the McClellan bill this session. We recommend that if you decide against further study you treat the following recommendations as "FYI" -- and defer any death penalty announcement until Congressional action is imminent.

- ☒ Defer decision (recommended)
- ☐ Announce decision now

(b) The merits. Dees recommends opposing the death penalty altogether.

- o Opposing the death penalty would eliminate the arbitrary and potentially unfair and discriminatory application of a death penalty; it would put the U.S. in line with over 40 nations which have outlawed capital punishment; and it would further your stand on human rights.
- o On the other hand, many experts believe that the death sentence is a legitimate punishment in highly aggravated situations. In the campaign, you stated that the death penalty should be "retained for a few aggravated crimes like murder committed by an inmate with a life sentence." In addition, you would be taking a position which is definitely contrary to public opinion.

An alternative would be to reaffirm or modify your campaign statement.

- If you modify your statement to limit the death penalty to the single instance where a lifer kills a guard, the advantages would be that no further study would be required; the position is logically defensible because theoretically there could be no other deterrent for a lifer who kills a guard; and we would not have to weigh and balance between different crimes to see which would merit the death sentence.

However, the position does not meet the concerns of those who believe that the death penalty should be more widely applied.

A second alternative would be to reaffirm your campaign position and support either the McClellan bill or a modification of that bill.

- The Bill, S. 1382, provides for a Federal death penalty for:
 - assassination of the President and others in the line of succession;
 - assassination of members of Congress;
 - killing of Federal law enforcement officials, e.g., judges, United States Attorneys, FBI agents, etc.;
 - first degree murder within Federal reservations;
 - first degree murder of a foreign official;
 - death resulting from destruction (e.g., bombing) of aircraft or aircraft facilities;
 - death resulting from kidnapping where there is Federal jurisdiction;
 - death resulting from bank robbery where there is Federal jurisdiction, e.g. where a bank is insured by FDIC;
 - death resulting from aircraft piracy;
 - death resulting from train wrecking;

--death resulting from mailing of injurious articles where the mailing is a direct cause of the death, e.g., letter-bomb;

--death resulting from use of explosives where there is Federal jurisdiction, e.g., bombing of a Federal building;

--wartime espionage, and peacetime espionage to the extent it involves major weapons systems (e.g., nuclear weaponry) or defense strategy;

--treason.

- S. 1382 retains the death penalty for two offenses where life has not been taken--espionage and treason. Although it can be argued that both are very serious crimes, this country's experience with the charged atmosphere surrounding espionage cases--e.g., the Rosenberg trial and executions--counsels against the imposition of death for treason or espionage.

The bill also provides for the death penalty in a variety of instances on federal property or where there is another basis for federal jurisdiction, which can lead to the anomalous situation of a person being sentenced to death for a murder on an Indian reservation in the Black Hills, but not for the same murder in a crowded rally in front of the White House. In addition, the quiet poisoning of a congressman by his wife (or girlfriend) could result in the death penalty, but if the congressman brutally and savagely murdered and dismembered his wife (or girlfriend) the death penalty would not apply, unless he performed the act on government property. Why should the killing of the HUD Secretary result in the death penalty, but not the killing of the Director of OMB? While it is appropriate for Federal law to attempt to discourage assaults on high government officials, such anomalies lend the appearance of unfairness.

Recommendation: Stu recommends that (if you wish to make a decision at this time) you reaffirm your campaign statement, and support modification of the McClellan bill which would confine the death penalty to aggravated instances in which a prison guard is killed by a lifer and for mass or multiple murders, or for a single death under circumstances (such as terrorism) which are likely to result in mass or multiple murders. This would include a single death resulting from bombing, poisoning of a city water supply, air piracy, train wrecking, terrorist activities, etc. It would not include the killing of federal officials per se or killings on federal property per se. Judge Bell stated during his confirmation hearings that he would favor the death penalty in limited circumstances and also told Senator McClellan privately that he would personally support the McClellan bill, although he reserved the right to work out some modifications with Senator McClellan.

- _____ Oppose the death penalty altogether (Dees recommends)
- _____ Reaffirm campaign statement and approve death penalty only in the instance where an inmate serving a life sentence kills a guard.
- _____ Approve the death penalty only where an inmate serving a life sentence kills a guard and for mass or multiple murders or for a single death under circumstances which are likely to result in mass, or multiple murders. (Stu recommends)
- _____ Support the McClellan bill. (The Attorney General is committed personally to Senator McClellan subject to possible modifications. The Attorney General believes that if Senator McClellan urges his public support of the bill that the Attorney General can discuss possible modifications of the bill to align more closely the specifics of the bill with the public statements of the President and the Attorney General.)

4. Justice Department Monitoring Project

It is suggested in the Dees memo that the Department of Justice initiate a project to monitor the characteristics of offenders upon whom the death penalty is imposed, along with characteristics of the victims.

The advantages of such a monitoring project are that there would be data which could be used to test the assertion that the death penalty is imposed in a racially discriminatory

fashion, and to find out if the new state death penalty laws giving juries "guidelines" are working to prevent a discriminatory application of the death penalty. The data would be of use to the courts and Congress as well as the Executive.

The disadvantage of this proposal might be the time and difficulty involved in collecting the data. The Department already routinely collects and monitors data on incarcerated capital offenders as a part of the National Prisoners Statistics program administered by LEAA. However, the offender characteristics are not presently related to victim characteristics and consequently it is not now possible to compare the relative sentences of offenders according to particular characteristics of their victims.

The Civil Rights Division will review with LEAA the possibility of collecting and comparing data on victim characteristics so that such comparisons might be available in the future.

Recommendation

The Attorney General and Stu recommend that the monitoring project be undertaken if it appears feasible.

 Justice Department should initiate such a monitoring project if feasible. (The Attorney General and Stu recommend)

 Justice Department should not initiate monitoring project.

5. Federal Legal Aid for Criminal Defendants

You are urged by Morris Dees to extend the Federal Legal Services Corporation to include legal aid for indigent criminal defendants. It now serves only those with civil legal problems.

The legal representation of indigent criminal defendants is a responsibility clearly mandated to the states. The problem is a lack of adequate representation. The Legal Services Corporation would not oppose the idea, but they are not anxious to assume such an undertaking, at least at this time.

Some alternatives to a full legal services-type operation might be the use of LEAA funds to bolster state public defenders where their resources are most lacking, such as training and laboratory analysis and investigation; or we might devise a legal aid system which concentrates only on capital offenses.

Recommendation: We would be willing to work on this with the Legal Services Corporation to present you with alternatives for your consideration, but we do not now recommend extension of legal aid to indigents in criminal matters.

_____ Set up informal study group to determine feasibility and present alternatives;

_____ Do not consider at this time. (recommended)

Date: November 10, 1977

MEMORANDUM

FOR ACTION:

Hamilton Jordan
Bob Lipshutz
Frank Moore
Jack Watson

FOR INFORMATION:

The Vice President

XC: CABLE
TATE
FM

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Eizenstat/Attorney General memo dated 11/10/77 re
Morris Dees' Memo on Death Penalty

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME:

DAY: IMMEDIATE TURNAROUND

DATE:

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

CONGRESSIONAL LIAISON: Recommend against any kind of public statement on activity on the death penalty issue at this time. Not only is the McClelland bill not going anywhere this session, CL questions whether it will go anywhere next session. (It will not go anywhere in the House this session or next.) This is not the kind of issue we should be talking about during an election year -- if at all possible.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

57
Date: November 10, 1977

MEMORANDUM

FOR ACTION:

Hamilton Jordan
Bob Lipshutz
Frank Moore
Jack Watson

FOR INFORMATION:

The Vice President

FROM: Rick Hutcheson, Staff Secretary

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TO THE STAFF SECRETARY BY:

TIME:

DAY: IMMEDIATE TURNAROUND

DATE:

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☒ I concur.☒ No comment.*Please note other comments below:***PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 11 1977

MEMORANDUM FOR:

RICK HUTCHESON

THRU:

BO CLUSTER

FROM:

DENNIS O. GREEN

SUBJECT:

Eizenstat/Attorney General memo
dated 11/10/77 re Morris Dees' memo
on Death Penalty

OMB concurs in the recommendations made by Eizenstat and Bell in their November 10 memo. More particularly, we would note that:

- 1) More study of the problem is unlikely to expand significantly the factual base for the decision regarding the death penalty.
- 2) The governors will resent Presidential interference in their "domain."
- 3) Congress will not consider the McClellan bill this session, obviating a need for Presidential involvement. Further, the McClellan bill's approach to the death penalty appears somewhat expansive.
- 4) Since the primary legal objection to the death penalty is that it is imposed in a discriminatory fashion, further study of its actual application would be valuable.
- 5) Expansion of the Legal Services Corporation to provide criminal representation is clearly beyond the Corporation's scope as originally envisaged and should not be undertaken without detailed analysis.

If it is decided to make a formal administration policy statement at this time, we concur in Eizenstat's recommendation for a narrower application of the death penalty.

Dennis O. Green
Associate Director for
Economics and Government

THE WHITE HOUSE
WASHINGTON

November 12, 1977

Zbig Brzezinski

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: TRIP

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
✓	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

cc Phil

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
		LANCE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
✓	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE PRESIDENT HAS SEEN:

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

3619
J

November 11, 1977

MEMORANDUM FOR: PRESIDENT CARTER

FROM: PHIL WISE *PW*

In order for the nine country, four continent trip to be manageable, it should cover a fourteen day time-span with more time added in South America and two additional overnights to allow body systems to adjust to the different time zones.

The most interesting countries on the proposed schedule will be Venezuela, Nigeria, India, France and Poland. They provide the greatest opportunity for both substantive and visual events. Brazil, Saudi Arabia, Iran and Belgium have the least potential for exciting events.

The governments of Venezuela, Nigeria, India and Iran will be the most cooperative in making their resources available for a successful trip.

The following are brief observations of each country visited:

VENEZUELA

To be effective, an additional half day should be added to the Venezuelan stop and more time with Perez would increase the substance of the visit. The visit to the Tomb of Simon Bolivar offers a good opportunity for a successful crowd event, but there have been strong negative intelligence reports from Caracas.

President Perez personally handled President Kennedy's visit in 1961 and looks forward to hosting you on this trip.

BRAZIL

Brasilia does not lend itself to an exciting schedule because of its structure and size. The chief event will be the substantive talks between Geisel and yourself. In order to host a reception that serves our purposes in regard to human rights, we would have to invite persons that would do more harm than good to building a relationship with the Brazilian government.

A press breakfast with leading journalists might be a better way to accomplish the same thing. The government was most cooperative in arranging the schedule.

NIGERIA

Your arrival as the first President to visit Black Africa will be the focal point of the visit. Thus, the arrival ceremony is very important. After the arrival the key to a successful trip is to keep movements as simple as possible. The country has very little infrastructure and driving from one part of the city to another will be very difficult and time-consuming. The government definitely wants your visit and will cooperate as much as possible.

SAUDI ARABIA

The length of this stop is the only question. Ambassador West said that if you could not stay at least 4-1/2 - 5 hours to observe proper protocol, you should cancel the visit.

INDIA

The government is eager to host your visit. This stop should be one of the most successful of your trip. An important concern is to be in New Delhi on a Sunday in order to build the largest crowd possible at a civic reception.

IRAN

The host government is very cooperative and the schedule is simple.

FRANCE

Most of the details of your visit need to be arranged with the French government. Once a general schedule is approved there should be little problem in implementing it. The train trip to Normandy should be a good event and the dinner at Versailles will be very well done.

POLAND

The Polish government would discuss very little of the schedule because of the proposed reception. They said the rest of the schedule could be arranged if the reception was dropped. While they want you to visit, they would rather cancel your trip than be embarrassed by the reception.

We could explore a live press conference to replace the reception and insist on a visit to the Ghetto Monument. If your arrival is timed on a Saturday afternoon or Sunday there should be very large and responsive crowds.

BELGIUM

The three stops proposed are very organized and the government cooperative.

THE WHITE HOUSE
WASHINGTON
November 12, 1977

Jody Powell

The attached was returned in the President's outbox yesterday and is forwarded to you for appropriate handling. The signed original has been given to Bob Linder for delivery.

Rick Hutcheson

cc: Stu Eizenstat
Frank Moore
Bob Linder

RE: SUGAR IMPORT PROCLAMATION

THE WHITE HOUSE
WASHINGTON

Mr. President:

THREE SIGNATURES REQUESTED.

Rick (wds)

Signed 11-11

THE WHITE HOUSE
WASHINGTON

for Noon release

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION
FYI

<input type="checkbox"/>	MONDALE
<input type="checkbox"/>	COSTANZA
<input checked="" type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	LIPSHUTZ
<input checked="" type="checkbox"/>	MOORE
<input checked="" type="checkbox"/>	POWELL
<input type="checkbox"/>	WATSON
<input type="checkbox"/>	LANCE
<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
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<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

THE WHITE HOUSE

WASHINGTON

November 11, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
LYNN DAFT

SUBJECT: Implementing the de la Garza
Sugar Program

On Tuesday, the Department of Agriculture announced regulations for implementation of the de la Garza sugar program (press releases attached at Tab A). Though the program will not become operational for several more days, it is necessary to begin implementation of import restrictions now. Pursuant to your decision to use tariffs rather than quotas, Secretary Bergland also announced that he would ask you to impose fees (tariffs) on imported sugar. As you know, these fees are necessary to prevent the price support program from being rendered ineffective by sugar imports.

To implement these fees, you are required to take three actions:

- (1) Issue a proclamation under the emergency provisions of Section 22(b) of the Agricultural Adjustment Act imposing import fees of up to 50 percent ad valorem.
- (2) As required under Section 22, direct the International Trade Commission to make an investigation of the need for the imposition of import restrictions.
- (3) Issue a proclamation under the Headnote of the Trade Expansion Act of 1962 to raise the duty from 1.875 cents per pound to 2.8125 cents per pound, on average.

The authorizing documents for each of these actions is attached (Tabs B, C, and D). They have been reviewed and approved by the USDA, STR, Treasury, State, and Justice.

A few points regarding the duty:

- o It will be a variable duty, declining as the world price rises. The fee imposed under Section 22 will decline first.
- o The maximum amount of duty authorized is 6.1375 cents per pound. Of this, 2.8125 cents is authorized under the Headnote authority and 3.325 under Section 22.
- o Sugar in transit from foreign ports on the date of the proclamation is exempted from the duty increases.
- o Likewise, sugar sold on "forward contracts" to be delivered by January 1 is also exempted from the duty increases.
- o Sugar entering under the Generalized System of Preferences (GSP) from designated developing countries will be required to pay the Section 22 portion of the duty.
- o Certain sugar destined for industrial use only (accounting for only 0.2 percent of total imports) is exempted from the Section 22 portion of the duty.

We recommend that you approve these proclamations. Your signature will implement the decision to impose tariffs which you made a few days ago.

DECISION

☒ Approved
☐ Disapproved



NEWS

U.S. DEPARTMENT OF AGRICULTURE

SUGAR IMPORT FEES REQUESTED BY USDA:

WASHINGTON, Nov. 8--Secretary of Agriculture Bob Bergland said today he will ask President Carter to impose fees on imported sugar to protect the government's new sugar price support program.

Mr. Bergland will ask the President to take immediate action under Section 22 of the Agricultural Act of 1933. The action is necessary to prevent the price support program from being rendered ineffective by sugar imports, the secretary said.

The secretary said he recommends the assessment of a fee on imported sugar of up to 3.3 cents per pound under Section 22 authority.

In addition, Mr. Bergland said he understands that the President's special trade representative, Ambassador Robert Strauss, will recommend an increase of 0.9 cents in the duty on imported sugar to 2.81 cents, the maximum permitted by law.

The secretary said the actions taken today can be expected to cause a modest increase in the retail price of sugar. Current prices for refined sugar average 21.68 cents per pound; the price support and fee actions should increase it to no more than 25 cents per pound, he said.

Jenkins (202) 447-6787
McDavid (202) 447-4026

NEWS

U.S. DEPARTMENT OF AGRICULTURE

SECRETARY BERGLAND ANNOUNCES SUGAR LOAN PROGRAM PROVISIONS:

WASHINGTON, Nov. 8 —Secretary of Agriculture Bob Bergland today announced regulations for the 1977-crop sugar loan program required by the Food and Agriculture Act of 1977. With the initiation of the loan program, the Department will end the price support payment program announced earlier (see USDA press releases 2618-77 and 2855-77).

Under the loan program, the Commodity Credit Corporation (CCC) will offer sugar processors loans of 14.24 cents per pound of refined beet sugar and 13.50 cents per pound of cane sugar (raw value).

To qualify, processors must pay producers at least the same prices set under the payments program. Producers, in turn, must pay their sugar production employees at least the minimum wage rates (now being developed by the Department) in order to be eligible for price support.

Loans will be accepted by state Agricultural Stabilization and Conservation (ASC) committees in the state where the sugar processor is headquartered. The previous payment program still applies to 1977-crop sugar marketed through Nov. 7, if application for payment is made no later than Nov. 22.

Other major loan program provisions appear below.

--Loans can be made on refined beet sugar, raw cane sugar, cane syrup and edible molasses made from 1977-crop sugarbeets and sugarcane for which producers certify to processors that minimum wage requirements are met.

- more -

--Sugar used as loan collateral must be in storage owned or leased by the processor and must not have been reported as marketed under the interim payments program.

--The interest rate in effect at the time a loan is disbursed (currently 6 percent) will not change. Interest is charged only if the loan is redeemed.

--Loans will mature on the last day of the eleventh month following the month of disbursement, but CCC may accelerate the maturity date.

--A processor may redeem a loan at any time during the loan period, but at maturity must either redeem or deliver the commodity to CCC.

--CCC may take delivery in the processor's storage or may direct delivery to another facility. In either case, CCC will take title and, if the quantity delivered times the loan rate covers the loan, will consider the loan as fully satisfied.

--The processor must, where CCC takes title in the processor's storage, keep it in storage until CCC directs him to remove and deliver it to another designated place. CCC will make monthly storage payments after it takes title at a rate of not more than \$0.000833 per pound, per month.

Forms to be used and other program details will soon be available at state ASCS offices in appropriate states.

USDA 3209-77

Feist (202) 447-6787
McDavid (202) 447-4026

NEWS

U.S. DEPARTMENT OF AGRICULTURE

MINIMUM WAGE RATES FOR SUGAR FIELDWORKERS TO BE SET BY USDA:

WASHINGTON, Nov. 8 —Secretary of Agriculture Bob Bergland today announced that he intends to establish minimum wage rates for sugarbeet and sugarcane fieldworkers in carrying out the sugar price support program authorized by the Food and Agriculture Act of 1977.

Before determining the terms and conditions of the minimum wage requirements, comments are being invited from agricultural workers, representatives of labor, producers of sugarbeets and sugarcane, and other interested persons. Comments should be mailed to the Sugar Branch, Procurement and Sales Division, ASCS-USDA, Room 5741 South Building, P.O. Box 2415, Washington, D.C. 20013, and must be received by Nov. 21 to be assured of consideration.

The notice of the proposed determination of minimum wage rates for sugar fieldworkers, which is scheduled for publication in the Federal Register later this week, points out that the Food and Agriculture Act of 1977 provides no guidance or standards to the Secretary in establishing the wage rates. The Department of Agriculture formerly established minimum wage rates for sugar fieldworkers under the Sugar Act of 1948, as amended. That Act expired Dec. 31, 1974. The purpose of the Sugar Act "fair wage" provision was for producers to share with their fieldworkers on a fair and reasonable basis the income received from the sale of sugarbeets or sugarcane. However, the Sugar Act was also structured in such a way as to assure consistently remunerative prices to producers through its "fair price" provisions. Department officials said the price support loan program now being placed into effect does not have a parallel principle.

Nevertheless, the Department intends to establish wage rates which will result in rates that, as nearly as possible, will be "fair" to the worker and "reasonable" to the producer.

The Department is requesting that all respondents to the invitation for comments keep all of the issues in mind when making their specific recommendations on the level of minimum wage rates, the operations to be covered, worker classifications, and wage rate differentials among worker classifications. Information is also being sought on the hourly or piecework rates now prevailing for workers in sugarbeet and sugarcane operations, other farming operations, and nearby industrial enterprises.

- - - - -

USDA 3208-77



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

8 NOV 1977

The President
The White House

Dear Mr. President:

Section 201 of the Agriculture Act of 1949, as amended by Section 902 of the Food and Agriculture Act of 1977 (91 Stat 949, effective October 1977) provides that the price of the 1977 and 1978 crops of sugar beets and sugar cane shall be supported through loans or purchases with respect to the processed products thereof at a level not in excess of 65 per centum nor less than 52.5 per centum of the parity price therefor. Section 201 further provides that the support level may in no event be less than 13.5 cents per pound raw sugar equivalent.

Pursuant to Section 201 of the Act, I have implemented a program to provide price support to sugar beet and sugarcane producers at not less than 13.5 cents per pound, raw sugar equivalent. Price support will be made available through loans by the Commodity Credit Corporation to sugar processors who pledge sugar as collateral on the condition that they pay the applicable support price to producers of sugar beets and sugarcane. If the loans are not redeemed upon maturity, the sugar may be delivered to the Commodity Credit Corporation in satisfaction of the loan. This program is intended to achieve the mandated support level of 13.5 cents per pound raw sugar equivalent.

World prices of sugar are substantially below this level. Currently, prices for raw sugar, f.o.b. basis, are in the range of 7 to 8 cents per pound. These prices are equivalent to a landed, duty paid price range of 10 to 11 cents per pound. These prices reflect a situation in which world supplies are heavily in excess of commercial demand. For the short term, the outlook is that this situation will continue. We are hopeful that the recently negotiated International Sugar Agreement will alter this situation by bringing world supplies into better balance with demand and, accordingly, increase prices from their present depressed levels, which are below the costs of production. The Agreement is, however, not yet in force and we cannot at this time predict with certainty when it will enter into force or when it will raise world market prices to levels which are consistent with the level of the Department's support program.

World production of sugar has exceeded world consumption during the past three years and is expected to do so again in the current crop year. This has led to a substantial build-up in sugar stocks; by the end of

the current crop year (August 1, 1978) these stocks may equal a record 30 percent of world consumption.

These ever-increasing world stocks have had a depressing effect on sugar prices. The average world price during 1975 was 20.5 cents per pound and declined to 11.6 cents per pound in 1976. In October 1977, the average price was 7.1 cents per pound. Since the termination of the U.S. Sugar Act on December 31, 1974, the domestic price has moved in relation to world prices. Generally, the domestic price has exceeded the world price by a margin equal to the cost of shipping and handling and the import duty. The domestic price averaged 10.1 cents in October.

With the prospect of a further build-up in world sugar stocks, world market values will remain relatively depressed. Foreign sugar supplies will be available at prices lower than those applicable under the support program and U.S. sugar users will be influenced to purchase excessive quantities of foreign sugar. The current quota and duty will not provide protection against these sugar imports, displacing substantial amounts of domestic sugar. In turn, domestic sugar will be placed under loan, with the very likely end result that the Commodity Credit Corporation will acquire title to it.

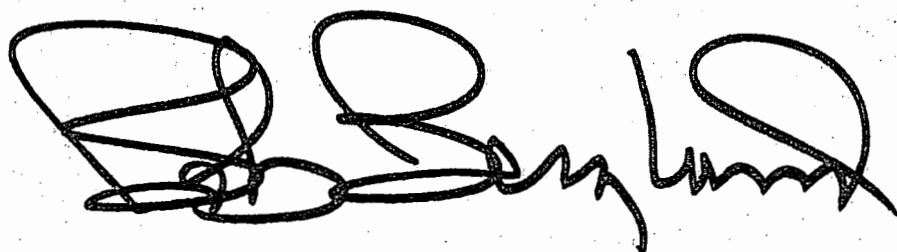
In view of the foregoing, I have reason to believe that sugar, sirups and molasses, as described in items 155.20 and 155.30, part 10A, Schedule 1, of the Tariff Schedules of the United States (TSUS), are practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program for sugar undertaken by the Department of Agriculture, or to reduce substantially the amount of products processed in the United States from domestic sugar. Accordingly, I have concluded that it is necessary to invoke the authority of Section 22 of the Agricultural Adjustment Act, as amended, which provides for the imposition of quantitative restrictions or fees, in order to prevent the importation of such articles from materially interfering with, or rendering ineffective, the Department's support program for sugar.

I further recommend that, in order to attain, under changing world market conditions, the objective of protecting the price support program with a mandated minimum price support of 13.5 cents per pound, raw basis, an import fee, the amount of which would vary with the value of the articles imported should be imposed. Section 22 provides that such fee may not be in excess of 50 per centum advalorem.

I further recommend that you direct the United States International Trade Commission to make an investigation under Section 22 of the Agricultural Adjustment Act, as amended, as to the need for the imposition of import restrictions on sugar. Enclosed is a draft of a proposed letter to the International Trade Commission.

Because of the threat that large amounts of sugar could be imported into the United States without delay, and since I have reason to believe that such importations are practically certain to be made under such conditions, at such prices, and in such quantities as to materially interfere with the price support program of this Department for sugar, I have determined that a condition exists which requires emergency treatment. I therefore recommend that you invoke the emergency provisions of Section 22(b) of the Agricultural Adjustment Act, as amended, and immediately issue a Presidential Proclamation thereunder imposing import fees, as set forth in the attached draft of an emergency proclamation imposing such import fees upon sugar, these fees to remain in effect pending your action upon receipt of the report and recommendation of the International Trade Commission with respect thereto.

Respectfully,

A large, stylized handwritten signature in black ink, appearing to read "R. R. Benjamin". The signature is written in a cursive, flowing style with large loops and a long horizontal stroke at the bottom.

Enclosures

IMPORT FEES ON SUGAR, SIRUPS, AND MOLASSES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. The Secretary of Agriculture has advised me that he has reason to believe that certain sugars, sirups, and molasses, derived from sugar cane or sugar beets, classified under items 155.20 and 155.30, of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or to materially interfere with, the price support operations now being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from domestic sugar beets and sugar cane.

2. I agree that there is reason for such belief by the Secretary of Agriculture. Therefore, I am requesting the United States International Trade Commission to make an immediate investigation with respect to this matter pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), and to report its findings and recommendations to me as soon as possible.

3. The Secretary of Agriculture has also determined and reported to me, with regard to such sugars, sirups, and molasses, that a condition exists which requires emergency treatment, and that the import fees hereinafter proclaimed should be imposed without awaiting the report and recommendations of the United States International Trade Commission.

4. I find and declare that the imposition of import fees hereinafter proclaimed, without awaiting the recommendations

of the United States International Trade Commission with respect to such action, is necessary in order that the entry, or withdrawal from warehouse, for consumption of certain sugars, sirups, and molasses, described below by value, use and physical description, and classified under TSUS items 155.20 and 155.30, will not render or tend to render ineffective, or materially interfere with, the price support operations now being conducted by the Department of Agriculture for sugar cane or sugar beets, or reduce substantially the amount of any product processed in the United States from domestic sugar beets or sugar cane.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and Statutes of the United States of America, including section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that Part 3 of the Appendix to the TSUS is amended as follows:

(a) A new headnote is added which reads as follows:

4. Sugar, sirups, and molasses

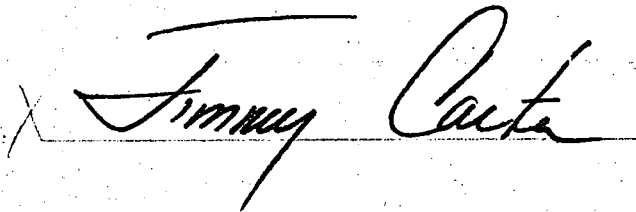
Licenses may be issued by the Secretary of Agriculture or his designee authorizing the entry of articles exempt from the fees provided for in items 956.10, 956.20, 957.10 and 957.20 of this part on the condition that such articles will be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. Such licenses shall be issued under regulations of the Secretary of Agriculture which he determines are necessary to insure the use of such articles only for such purposes.

(b) The following new items, in numerical sequence, are added following items 955.06:

<u>Item</u>	<u>Articles</u>	<u>Import Fees</u>
	"Sugars, sirups, and molasses, derived from sugar cane or sugar beets, except those entered pursuant to a license issued by the Secretary of Agriculture in accordance with headnote 4: Principally of crystalline structure or in dry amorphous form, provided for in item 155.20, part 10A, schedule 1:	
956.10	Valued at not more than 6.67 cents per pound	50% ad. val.
956.20	Valued at more than 6.67 cents per pound but not more than 10.0 cents per pound	3.32 cents per lb. less the amount per lb. by which the value exceeds 6.67 cents per lb.
	Not principally of crystalline structure and not in dry amorphous form, containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids, provided for in item 155.30, part 10A, schedule 1:	
957.10	Valued at not more than 6.67 cents per pound of total sugars	50% ad. val.
957.20	Valued at more than 6.67 cents per pound of total sugars but not more than 10.0 cents per pound of total sugars	3.32 cents per lb. of total sugars less the amount per lb. of total sugars by which the value exceeds 6.67 cents per lb. of total sugars."

The fees established by items 956.10, 956.20, 957.10 and 957.20 shall apply to articles entered, or withdrawn from warehouse, for consumption on or after the date of this Proclamation, and shall continue to apply to such articles pending the report and recommendations of the United States International Trade Commission and action that I may take on them. However, such fees shall not apply to articles (a) exported to the United States before 12:01 A.M. (U.S. Eastern Standard Time) on the date of this Proclamation or (b) imported to fulfill forward contracts entered into before 12:01 A.M. (U.S. Eastern Standard Time) on the date of this Proclamation, Provided, That articles referred to in (a) and (b) are entered, or withdrawn from warehouse, for consumption on or before January 1, 1978.

IN WITNESS WHEREOF, I have hereunto set my hand this
day of November, in the year of our Lord
nineteen hundred and seventy-seven, and of the Independence
of the United States of America the two hundred and second.

X 

THE WHITE HOUSE
WASHINGTON

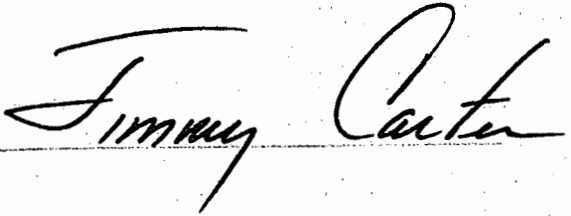
To Chairman Daniel Minchew

Pursuant to Section 22 of the Agricultural Adjustment Act, as amended, I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that certain sugars, sirups, and molasses, provided for in items 155.20 and 155.30 of part 10A, schedule 1 of the Tariff Schedules of the United States, are being or are practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations now being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane or sugar beets.

The Secretary has also advised me, pursuant to Section 22(b) of the Agricultural Adjustment Act, as amended, that a condition exists requiring emergency treatment with respect to such sugars, sirups, and molasses and has, therefore, recommended that I take prompt action under Section 22(b) to impose import fees on such sugars, sirups, and molasses. I am today issuing a proclamation imposing import fees on certain sugars, sirups, and molasses, such fees to continue in effect pending the report and recommendation of the United States International Trade Commission and action that I may take thereon.

The United States International Trade Commission is directed to make an immediate investigation under Section 22 of the Agricultural Adjustment Act, as amended, to determine whether the above-described sugars, sirups, and molasses are being, or are practically certain to be, imported under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the price support operations now being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane and sugar beets, and to report its findings and recommendations to me at the earliest practicable date.

Sincerely,

X 

The Honorable Daniel Minchew
Chairman
United States International
Trade Commission
Washington, D.C. 20436

MODIFICATION OF TARIFFS ON CERTAIN SUGARS,
SIRUPS, AND MOLASSES

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. By Proclamation 4334, of November 16, 1974, the President modified Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS") to establish, effective January 1, 1975, following expiration of the Sugar Act of 1948, a rate of duty and quota applicable to sugars, sirups and molasses described in items 155.20 and 155.30 of the TSUS. By Proclamation 4463 of September 21, 1976, as amended by Proclamation 4466, of October 4, 1976, the President modified the rate of duty applicable to such sugars, sirups and molasses.

2. The President took these actions pursuant to authority vested in him by the Constitution and statutes of the United States, including section 201 (a)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 1821 (a)(2)), and in conformity with Headnote 2 of Subpart A of Part 10 of Schedule 1 of the TSUS, hereinafter referred to as the "Headnote". The Headnote was part of a trade agreement that embodied the results of the "Kennedy Round" of international trade negotiations. That agreement is known formally as the 1967 Geneva Protocol to the General Agreement on Tariffs and Trade, and the agreement includes, as an Annex, "Schedule XX", a schedule of United States trade concessions made during those negotiations. This agreement was concluded pursuant to section 201 (a) of the Trade Expansion Act of 1962 (19 U.S.C. 1821 (a)), and was implemented by Proclamation No. 3822, of December 16, 1967, (82 Stat. 1455) which, inter alia, added the Headnote to the TSUS.

3. The Headnote provides, in relevant part, as follows:

"(i) ... if the President finds that a particular rate not lower than such January 1, 1968, rate, limited by a particular quota, may be established for any articles provided for in item 155.20 or 155.30, which will give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade, he shall proclaim such particular rate and such quota limitation, ...

"(ii) ... any rate and quota limitation so established shall be modified if the President finds and proclaims that such modification is required or appropriate to give effect to the above considerations; ..."

4. Section 201 (a) (2) of the Trade Expansion Act authorizes the President to proclaim the modification or continuance of any existing duty or other import restrictions, or such additional import restrictions as he determines to be required or appropriate to carry out any trade agreement entered into under the authority of that Act, except that pursuant to section 201(b) (2) of the Act, the President may not by proclamation increase a rate of duty to a rate more than 50% above the rate existing on July 1, 1934. The currently applicable tariff rates in rate column numbered 2 for sugars, sirups, and molasses, described in items 155.20 and 155.30, are treated as the rates "existing on July 1, 1934", for the purposes of the President's proclaiming authority.

5. General headnote 4(b) of the TSUS provides that a rate of duty proclaimed pursuant to a concession granted in a trade agreement shall be reflected in the column numbered 1 of the TSUS and, if higher than the then existing rate in column numbered 2, shall also be reflected in the latter column.

6. I find that the modifications hereinafter proclaimed of the rates of duty applicable to items 155.20 and 155.30 of the TSUS are appropriate to carry out that portion of the Kennedy Round trade agreement set forth in the Headnote, and as provided for therein, give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and statutes, including section 201 of the Trade Expansion Act of 1962, and pursuant to General Headnote 4(b), and Headnote 2, Subpart A of Part 10 of Schedule 1, of the TSUS, do hereby proclaim until otherwise superseded by law:

A. The rates of duty in rate columns numbered 1 and 2 for items 155.20 and 155.30 of Subpart A, Part 10, Schedule 1 of the TSUS, are modified, and the following rates are established:

155.20	2.98125¢ per lb. less 0.0421875¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.9265625¢ per lb.
155.30	dutiable on total sugars at the rate per lb. applicable under Item 155.20 to sugar testing 100 degrees.

B. Those parts of Proclamation 4334 of November 16, 1974, Proclamation 4463 of September 21, 1976, and Proclamation 4466 of October 4, 1976, which are inconsistent with the provisions of paragraph (A) above are hereby terminated.

C. The provisions of this Proclamation shall apply to articles entered, or withdrawn from warehouse, for consumption on and after the date of this Proclamation. However, the provisions of this Proclamation shall not apply to articles (a) exported to the United States before 12:01 A.M. (U.S. Eastern Standard Time), on the date of this Proclamation, or

(b) imported to fulfill forward contracts entered into before 12:01 A.M. (U.S. Eastern Standard Time), on the date of this Proclamation, Provided, that articles referred to in (a) and (b) above are entered, or withdrawn from warehouse, for consumption on or before January 1, 1978.

IN WITNESS WHEREOF, I have hereunto set my hand this
day of November, in the year of our Lord
nineteen hundred and seventy seven and of the Independence
of the United States of America, the two hundred and second.

X Jimmy Carter

THE WHITE HOUSE
WASHINGTON

November 12, 1977

Zbig Brzezinski

The attached was returned in the President's outbox today and is forwarded to you for your information. The signed original has been given to Bob Linder for appropriate handling.

Rick Huteson

cc: Bob Linder

RE: MEMO TO MEMBERS OF THE CABINET/
HEADS OF AGENCIES ON AUTHORITY
RESPONSIBILITY OF U.S.
AMBASSADORS

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION
FYI

	MONDALE
	COSTANZA
	EIZENSTAT
	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON
	LANCE
	SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

	ARAGON
	BOURNE
/	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
/	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

5821

ACTION

November 10, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM:

ZBIGNIEW BRZEZINSKI 

SUBJECT:

Memo to Members of the Cabinet/Heads
of Agencies on Authority/Responsibility
of U. S. Ambassadors

As follow-up action to the text of your letter of instructions to U. S. Ambassadors (Tab B) I attach for your approval a proposed memo to Members of the Cabinet and Heads of Agencies calling attention to the authority and responsibility of U. S. Ambassadors under Public Law 93-475 and emphasizing your desire for full support and cooperation in meeting their responsibilities.

Recommendation:

That you approve the memo at Tab A to Members of the Cabinet and Heads of Agencies.

Approve _____

As amended _____

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE HEADS OF

EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Authority and Responsibility of
United States Ambassadors

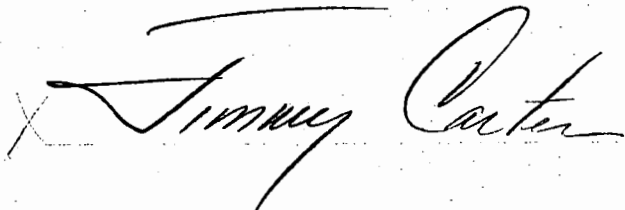
I have sent letters of instruction to each of my ambassadors outlining their authority and responsibility as Chiefs of American Diplomatic Missions. I expect your support and co-operation in insuring that relations between your department/agency and Chiefs of Mission are conducted in accordance with Public Law 93-475 (22 U.S.C. 2680a). Please circulate this memorandum to your appropriate staff in Washington and abroad.

P.L. 93-475 states: "Under the direction of the President--

(1) the United States Ambassador to a foreign country shall have full responsibility for the direction, coordination, and supervision of all United States Government officers and employees in that country, except for personnel under the command of a United States area military commander;

(2) the Ambassador shall keep himself fully and currently informed with respect to all activities and operations of the United States Government within that country, and shall insure that all Government officers and employees in that country, except for personnel under the command of a United States area military commander, comply fully with his directives; and

(3) any department or agency having officers or employees in a country shall keep the United States Ambassador to that country fully and currently informed with respect to all activities and operations of its officers and employees in that country, and shall insure that all of its officers and employees, except for personnel under the command of a United States area military commander, comply fully with all applicable directives of the Ambassador."

X 

THE WHITE HOUSE
WASHINGTON
November 12, 1977

Zbig Brzezinski
Betty Rainwater

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling. Please distribute the President's note and editorial as appropriate.

Rick Hutcheson

cc: Hamilton Jordan

RE: "CARTER COURTS OPINION SHAPE RS ON
CANAL TREATIES" -

THE WHITE HOUSE
WASHINGTON

To
Haw

MR. PRESIDENT—

EVIDENCE OUR BRIEFINGS
ARE HELPING.

YOU MIGHT WANT TO
WRITE A SIMPLE NOTE TO
THE REGULAR BRIEFING
PARTICIPANTS AND SEND COPY
OF THIS.

H.J.

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

11-12-77

To: Fellow Panama Canal
Treaty Briefers:

Encouraging analysis
of results.

Let's keep up the
good work.

Jimmy

encl: Willie Danner Op/Ed

Carter Courts Opinion Shapers On Canal Treaties

WASHINGTON — Byron Hirst is a well-established and well-connected lawyer in Cheyenne, Wyo. He is what the social scientists would call an "opinion leader" in his community. He is also a Republican.

A week ago last Saturday, Hirst was one of about a hundred opinion leaders from eight Western states who were invited to go to Denver for a briefing by the Carter administration on the proposed new Panama Canal treaties, a briefing that would conclude with a personal appeal for support from the President of the United States.

When he got back home to Cheyenne, Byron Hirst had changed his mind about the Panama Canal. He was not yet ready to go out and organize a demonstration in favor of the new treaties, but what he is doing now is almost as significant.

"I am trying to moderate people who are opposed to the treaties," he says. "About 80 per cent of the people around here are against them, because this is a conservative area."

"We're mountain people," he explains. "Teddy Roosevelt's Rough Riders came out of Wyoming, you know. But most people are against the treaties because they don't understand them."

HIRST NOW FEELS he understands them, and he is willing to support them enthusiastically if the Carter administration and the Senate will add the kind of clarifying language that was included in the joint communique recently drafted by President Carter and Panama's Gen. Omar Torrijos.

The case of Byron Hirst is a typical example of the success the



**Don
Campbell**
Gannett
News Service

White House is having in changing people's minds about one of the most controversial foreign affairs issues of this decade.

In an effort to counter the vocal and highly organized campaign by right-wing groups to defeat the treaties, the White House is holding a series of low-key briefings for business, civic and political leaders from around the country. Most of those invited are taken from lists submitted to the White House by their U.S. senators, whether pro or con on the treaties.

Until Denver, reporters had been shut out of the briefings, mainly because the White House feared that their presence would destroy the atmosphere of intimacy and frank discussion. As a result, the press became extremely curious as to why people were going into the briefings adamantly opposed to the treaties and coming out babbling about how they had seen the light.

That question was answered when the White House agreed to let public television broadcast the Denver briefing live to four states. What the reporters and everyone else saw was a masterful selling job, not only by Carter but by his national security adviser, Zbigniew Brzezinski, treaty co-negotiator Sol Linowitz, Defense Secretary Harold Brown and Gen.

George Brown, chairman of the Joint Chiefs of Staff.

THE AUDIENCE, each member having been given an official briefing book containing copies of the two proposed treaties and a batch of favorable newspaper editorials, was proselytized for three solid hours. Carter wound up the session by knocking down what he called a lot of myths about the Panama Canal and by urging the participants to go home and "let your own voice be heard."

If interviews this week with more than a dozen of those participants is a valid indicator, the briefing was an unqualified success.

In Laramie, the president of the University of Wyoming announced Monday that he had changed his position as a result of the Denver briefing, and was now supporting ratification of the treaties.

In Santa Fe, Dr. Dan Croy, chairman of the New Mexico Democratic Party, told an inquiring reporter that "when people are exposed to the facts, it turns them around." Croy, who once served as a doctor in the Panama Canal Zone, said he had never had any trouble with the "concept" of relinquishing control over the canal, but he had wanted to read the proposed treaties before endorsing them.

Now Croy is motivated enough to get himself invited to appear on a television talk show next week to argue for passage of the treaties. He says he is also "going to do all I can to turn our two senators around." Both New Mexico senators are Republicans who are expected to oppose ratification.

In Littleton, Colo., a rapidly

growing suburb south of Denver, Mayor Harold Meyer was turned around so abruptly by the briefing that he almost feels guilty about it. Meyer, "a Republican all my life," is now re-reading all the anti-treaty material by people like Ronald Reagan that he can get his hands on.

"Prior to the briefing, I was personally opposed to signing the treaties," he says. "But the President came out with a number of statements that made me go back and study the issue. For example, I wasn't aware that the treaty we had in the past wasn't with Panama. The more he spoke, the more you could see his point of view."

LIKE A NUMBER of others interviewed, Meyer isn't ready to march in the streets for ratification, but he is finding that his attendance at the briefing has cast him as something of a treaty expert in the eyes of others. "A lot of people are asking me what I think, now," he says.

In Salt Lake City, a professor at Brigham Young University, who asked not to be quoted by name, said he had gone to Denver "pretty prejudiced against" the proposed treaties, but that he came back "a little less sure of that."

Op/Ed

Op/Ed, opposite the editorial page, includes opinions and contentions by people of all persuasions.

He said he was "very impressed" by Carter's remarks on the issue and was "particularly impressed" by the presentation of Linowitz.

Moreover, the briefing caused this professor to go back and read the college textbooks and even his college notes on the history of the canal.

He says he is now prepared to take the lead in setting up campus debates on the proposed treaties, even though he has no expectation that anything will change the minds of Utah's two senators, Republicans Jake Garn and Orrin Hatch, both of whom oppose the treaties.

"I've talked with a lot of those people from Utah who went to Denver against the treaties and are now leaning for them," he reports.

Also in Salt Lake City, J.D. Williams, a political science professor at the University of Utah, had nothing but praise for the briefing. But, like several others, he wants to see the treaties amended to be more specific on U.S. rights to defend the canal.

"I think that is the Achilles' heel for the administration," Williams said. If the defense rights are spelled out more clearly, he added,

he could "enthusiastically" support them.

IN DENVER, Mrs. Lloyd Joshel, a former president of the Denver League of Women Voters, says the briefing "reinforced my positiveness" about the treaties. Beyond that, she said, she is "talking to everyone," is trying to get the local public television station to rebroadcast the briefing in prime time, and has asked to address the Denver Council on Foreign Relations to promote the treaties.

The drift of these comments is pretty clear: The White House is obviously making some headway in its carefully crafted campaign to "educate" the people on the canal issue. It may not produce many quick switches to support by senators now in the opposition, but if enough of these opinion molders spread the word, public opposition to the treaties as measured by the pollsters may continue to wane.

That is about the best the Carter administration can hope for. It knows that supporters of the treaties will never become emotionally charged, as the opposition is.

And there are some political benefits for the White House on the side, as the Denver briefing demonstrated. The Republicans who were invited, and who found their minds being changed about the treaties, are likely to resent GOP efforts to make it a partisan issue.

That was made clear by Byron Hirst in Cheyenne. "This is not a viable Republican political issue," he said. "It would be a grave mistake for the Republican Party to try to make hay on this — and you can quote me."

THE PRESIDENT HAS SEEN

C

November 12, 1977

TO: PRESIDENT CARTER
FROM: HAMILTON JORDAN *HJ*
RE: PANAMA VISIT OF U.S. SENATORS

The six Senators have just concluded what is regarded by all involved as a highly successful trip to Panama.

It was highlighted today by public statements of support for the treaty by several Senators as well as a dramatic announcement by General Torrijos about reforms he intended to institute in Panama.

Among other things Torrijos publicly promised to:

- submit a proposal to ^{THE} national assembly for restoration of freedom of the press after soliciting suggestions from the national union of journalists;
- agreed to return of political exiles after treaty was ratified;

Electrostatic Copy Made
for Preservation Purposes

- said he would restore due process of law by seeking repeal of a 1969 emergency law authorizing summary judgments of up to 15 years in prison without jury trial and without the right of the accused to counsel;
- also, Torrijos said that, "If the Senators ask me, I will resign if it will help in the passage of the treaties negotiated by our countries";

I talked to our Ambassador (Phil Jordan) who analyzed General Torrijos' statements as "dramatic" in terms of his political situation in Panama. He said that Torrijos spent much more time with the Senators than had been planned and that he simply "charmed" them. He said that they had long, serious discussions and that this accounted for the General's willingness to make public statements in reaction to the concerns that were expressed to him by the Senators.

In response, the Senators at their press conference made some significant statements, including:

- Senator Byrd said that General Torrijos' statement today, "was a positive step. I don't see but that it can help but improve the atmosphere for ratification."
- Metzenbaum and Riegle made public their intentions to support the treaty, making reference to the public promises made by Torrijos today. Although it was expected that they would both support the treaty, this gives the trip some tangible result and us some needed political momentum.

- Senator Huddleston said that, "this trip and Torrijos' commitments have not diminished my belief that the treaties ought to be ratified. While refusing to describe this statement as a commitment to support the treaty, observers will obviously interpret this to mean that Huddleston will support the treaties.
- Senator Matsunaga said that he is, "returning to Washington to lobby with his colleagues in favor of ratification.
- While making favorable statements, Byrd and Sarbanes maintained an uncommitted posture.
- Senator Sasser left Friday to make a speech in Tennessee and did not participate in the press conference today.

In addition to our efforts here, it is obvious that we need to encourage Senators to visit the Canal Zone and Panama. We certainly should encourage Baker to take a group of Republican Senators down with him. We need to get someone to say that any Senator who is considering voting against the treaties has an obligation first to visit Panama and see first-hand the problems. Byrd will probably be inclined to say something like that at the appropriate time.

I will talk with Frank and attempt to devise a program to insure the maximum number of Senators visit Panama between now and the first of the year.

THE PRESIDENT'S SCHEDULE

Saturday - November 12, 1977

9:00 Dr. Zbigniew Brzezinski - The Oval Office.

12:55 Depart South Grounds via Helicopter
en route Navy/Marine Corps Memorial
Stadium - Annapolis, Maryland.

1:30 Navy - Tech Game.

THE PRESIDENT'S SCHEDULE

Sunday - November 13, 1977

9:50 Depart South Grounds via Motorcade
en route First Baptist Church.

10:00 Sunday School.

11:00 Morning Worship Service.